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apart for streets, yet such streets do not become "county roads or highways" under Code, § 1294d, cl. 38, 39, regarding duties of railways as to public crossings, unless and until they are accepted or established as such by the county authorities; the word "county," in section 1294d, modifying both the words "roads" and "highways."

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 954, 958.* 44 Va.-W. Va. Enc. Dig. 125, 354.

For other definitions, see Words and Phrases, First and Second Series, County Road.]

Error to Circuit Court, Alexandria County.

Action by Clara G. Fisher against the Washington-Virginia Railway Company. Judgment for plaintiff, and defendant brings error. Reversed.

John S. Barbour and Moore, Keith, McCandlish & Hall, all of Fairfax, for plaintiff in error.

Crandal Mackey and F. S. Key-Smith, both of Washington, D. C., for defendant in error.

WHITE *v.* WHITE.

June 14, 1917.

[92 S. E. 811.]

1. Divorce (§ 93 (2)*)—Pleading—Certainty.—In a husband's suit for divorce, complaint charging adultery held to sufficiently aver the place and circumstances with reasonable certainty.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 299, 304-307.* 4 Va.-W. Va. Enc. Dig. 746.]

2. Divorce (§ 99*)—Condonation—Pleading.—In divorce, condonation is a matter of specific affirmative defense which must be specifically pleaded, and the burden of proof is upon the defendant.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 316-318.* 4 Va.-W. Va. Enc. Dig. 745, 746.]

3. Divorce (§ 108*)—Condonation—Decree.—While the court may deny a divorce in the absence of pleading setting up condonation, it cannot do so where such defense is neither pleaded nor proved.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. §§ 349-352.* 4 Va.-W. Va. Enc. Dig. 747.]

4. Divorce (§ 135*)—Condonation—Evidence.—In a husband's suit for divorce on the ground of adultery, evidence held not to show condonation.

[Ed. Note.—For other cases, see Divorce, Cent. Dig. § 451.* 4 Va.-W. Va. Enc. Dig. 745.]

5. Appeal and Error (§ 204 (1)*)—Reservation of Grounds—Ad-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

missibility of Evidence.—In a suit for divorce where certain evidence has been treated by both sides as proper, it is too late to object to its admission on appeal.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 1258.* 1 Va.-W. Va. Enc. Dig. 560.]

Law and Equity Court of City of Richmond.

Action by Forest White against Mildred Ann White for divorce. Decree for plaintiff, and defendant appeals. Affirmed.

Isaac Diggs, of Richmond, for appellant.

Stuart G. Christian, of Richmond, for appellee.

FERRIES CO. *v.* BROWN.

June 14, 1917.

[92 S. E. 813.]

1. Witnesses (§ 287 (1)*)—Redirect Examination.—In an action for personal injuries, where defendant had elicited from plaintiff the statement that he had been discharged from his employment for stealing, there was no error in allowing plaintiff to state on redirect examination that he had not been guilty of the theft charged.

[Ed. Note.—For other cases, see Witnesses, Cent. Dig. §§ 930, 1000.* 13 Va.-W. Va. Enc. Dig. 962.]

2. Release (§ 59*)—Action for Injuries—Instructions.—In an action for personal injuries, an instruction that, if the jury believed from the evidence that plaintiff executed a certain release, they must find for defendant, was properly refused, where it ignored evidence that it was made without consideration and procured by fraud.

[Ed. Note.—For other cases, see Release, Cent. Dig. § 115.* 7 Va.-W. Va. Enc. Dig. 724.]

3. Release (§ 12 (1)*)—Essentials—Consideration.—A release of a claim for personal injuries sustained by an employee, not under seal, requires a valuable consideration.

[Ed. Note.—For other cases, see Release, Cent. Dig. § 18.* 11 Va.-W. Va. Enc. Dig. 787, 788.]

4. Release (§ 59*)—Injuries to Servant—Instructions—Burden of Proof.—In an action for personal injuries, an instruction that, unless the jury believed that a release by plaintiff was executed without misrepresentation or fraud by defendant's agent and was for a valuable consideration, it would not bar plaintiff, was not erroneous as placing on defendant the burden of proving that the release was without misrepresentation or fraud.

[Ed. Note.—For other cases, see Release, Cent. Dig. § 115.* 11 Va.-W. Va. Enc. Dig. 795.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.